

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:14-cv-00305-MOC-DCK

JUANITA L. JONES,

Plaintiff,

Vs.

ORDER

J. CALVIN HILL

JULIE M. KEPPLER

PATRICIA K. YOUNG

CITY OF ASHEVILLE

STATE OF NORTH CAROLINA

MARTIN REIDINGER

ROY COOPER

RON MOORE

EDWIN D. CLONTZ

JOHN DOE 5

CHARLES E. BARNARD

ANNIE M. BARNARD

SAMUEL A. CATHEY

BUNCOMBE COUNTY DISTRICT COURT

PETER R. HENRY

ALAN B. STYLES

GEICO INSURANCE AGENCY INC.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NORTH CAROLINA

JOHN DOE 2

JOHN DOE 3

JOHN DOE 4,

Defendants.

THIS MATTER is before the court on plaintiff's pro se Motion to Recuse (#28), amended Motion to Recuse (#31), and second Motion to Recuse (#42). Such motions contain a number of contentions, including some inflammatory and spurious contentions.

Among the non-inflammatory contentions, plaintiff contends that a family member of the undersigned is the Clerk of Court for the 28th Judicial District. That is correct; however, it is not a basis for recusal at this point. Despite suing “Buncombe County District Court” in her Amended Complaint, close review of that document does not reveal that such family member is a named defendant in this action or that plaintiff has made any plausible allegation against the Clerk of Court either in his personal or professional capacities. In relevant part, plaintiff alleges in the introduction to her claim, as follows:

Buncombe County District Court has been the court house that has harbored and allowed Public Corruption to exist between corrupt lawyers and Judges with Monies being Exchanged for such crimes and Disregard for laws and rules of law. There has been thousands of innocent convicted by the outrageous Crimes of both the judges and Lawyers in this courthouse. In America you have the right to represent yourself and can Win with evidence. District Court 28 has Denied Truth and is liable for their Crimes under 18 USC 241 242 Conspiracy to commit fraud and deprivation of rights under color of Law

Amended Complaint (#15) at 11 (errors in the original). Plaintiff then states in the body of her Amended Complaint, as follows:

Buncombe County District 28 in where most of the corruption occurs with the changing of documents, judges ignoring laws and a violation of justice. The law states you have a right to represent yourself and that the Law still remains the same, voters rejected this style of prosecution by voting Defendant Ron Moore out of Office after 24 years of torture to innocent citizens like the Plaintiff who works hard and obeys Laws and do not use illegal Drugs. I have documents with 3 different dates. Apparently the counterclaim was filed before the lawsuit? This is unacceptable behavior by any one bound by laws in America Lawyers Prosecutors Judges City or county Officials or an Attorney General.

Id. at 17 (errors in the original). Nowhere in the Amended Complaint does plaintiff name or even mention the Clerk of Court for the 28th Judicial District or his employees. While a contention that documents were misdated could possibly be one directed to the Clerk of Court or his employees, such a conclusion at this point would be merely speculation as the pleadings are

unclear as to whether plaintiff's allegation concerning misdated documents goes to court filings, like pleadings, that are file-stamped by the Clerk of Court or a deed to real property which is recorded by the Register of Deeds, which is a separate office. As the undersigned's family member is not named and it is not clear that plaintiff's claim is based on any action of that family member's office, there is no basis for recusal at this time. The court does, however, reserve the right to revisit this issue if it becomes apparent that a family member has some interest in this litigation.

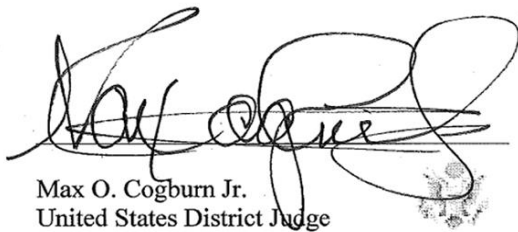
Plaintiff has also made a number of spurious assertions in her pleadings. Plaintiff is cautioned that regardless of who the judge is that ultimately decides her case, she should avoid making inflammatory allegations in her pleadings. The thrust of her Amended Complaint is that she believes she was deprived of real property without Due Process of law by those acting under color of state law. Such a claim is brought under the Civil Right Act of 1964, 42 U.S.C. § 1983 *et seq.*, and typically involves allegations that (1) state actors, (2) acting under color of state of law, (3) took property (4) without Due Process, in violation of protections afforded the Fifth and Fourteenth Amendments. The critical information that is necessary for such a claim to survive, to wit, "allegations of plausible facts," must focus on those elements. Attacking judges, prosecutors, and other public servants personally adds nothing to the quantum of plausible facts. In a single page (Motion to Recuse (#28) at 1), plaintiff has accused a federal judge of being "corrupt" and "one or more" of the named defendants, most of whom are public servants, of murder and attempted murder. Such remarks do nothing to advance plaintiff's Section 1983 action, but instead show a disrespect for the individuals she has sued and the judicial process

itself. Plaintiff is advised that this court treats all persons as equals, regardless of the reason they are before the court; in return, the court expects all persons appearing before the court to treat others with respect.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's Motion to Recuse (#28), amended Motion to Recuse (#31), and second Motion to Recuse (#42) are **DENIED** without prejudice.

Signed: January 27, 2015



Max O. Cogburn Jr.
United States District Judge